

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

MAURICE LARON HAYES,

Defendant.

ORDER

08-cr-26-bbc

09-cv-208-bbc

On June 29, 2009, I denied defendant Maurice Laron Hayes's motion for post conviction relief under 28 U.S.C. § 2255 because I found that his counsel was not ineffective at his sentencing. Now defendant has filed a motion for a certificate of appealability. This certificate is a prerequisite for appeal of the denial of defendant's motion for post-conviction relief brought pursuant to 28 U.S.C. § 2255. See 28 U.S.C. § 2253(c)(1)(A); Fed. R. App. P. 22.

A certificate of appealability shall issue "only if the applicant has made a substantial showing of the denial of a constitutional right." § 2253(c)(2). Before issuing a certificate of appealability, a district court must find that the issues the applicant wishes to raise are ones that "are debatable among jurists of reason; that a court could resolve the issues [in a

different manner]; or that the questions are adequate to deserve encouragement to proceed further." Barefoot v. Estelle, 463 U.S. 880, 893 n.4 (1983). "[T]he standard governing the issuance of a certificate of appealability is not the same as the standard for determining whether an appeal is in good faith. It is more demanding." Walker v. O'Brien, 216 F.3d 626, 631 (7th Cir. 2000).

Defendant continues to argue that his counsel was ineffective at sentencing. In my June 29 decision, I carefully considered all of defendant's arguments that his counsel was ineffective. I concluded that he had not shown that his counsel was ineffective according to Strickland v. Washington, 466 U.S. 668 (1984). I found that his attorney acted properly and that defendant had not shown any prejudice because of his counsel's representation. Therefore, defendant has not made a substantial showing of the denial of a constitutional right and I will deny his request for a certificate of appealability.

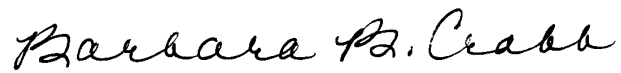
ORDER

IT IS ORDERED that defendant Maurice Laron Hayes's motion for a certificate of

appealability, dkt. #7, is DENIED.

Entered this 13th day of July, 2009.

BY THE COURT:

A handwritten signature in black ink, reading "Barbara B. Crabb". The signature is written in a cursive, flowing style.

BARBARA B. CRABB
District Judge